

Science unique among, and complementary to, the scientific programs for other federal science agencies, including the NIH and NSF. Each year over 15,000 sponsored scientists and students from academe, industry, and government—many funded by agencies other than the DOE—conduct cutting-edge experiments at the Department's research facilities. Every State in the country has scientists and engineers with a stake in DOE's user facilities.

One of the challenges the Office of Science has faced during the past decade is that its funding has been reduced by approximately 13 percent in constant dollars. Other science agencies, such as NIH, have been growing strongly, while the DOE Office of Science has significantly less funding today, in constant dollars, than 10 years ago.

These reductions have prevented the Office of Science from fully participating in new initiatives in exciting technical areas important to DOE's statutory missions such as high performance computing and nanotechnology. More troublesome, the declining funding for the Office of Science has reduced the number of scientists and students able to conduct research using DOE's national user facilities. In fact, DOE's national and university-based laboratories are currently operating well below their optimum levels, especially in light of growing demand from the scientific community.

DOE's scientific user communities and DOE's own scientific advisory committees have completed a number of reports over the past year to two to put a number on what DOE's science budget should look like, in order to fully take advantage of the scientific opportunities that are out there. They estimated that in FY 2001 alone a funding level of over \$3.3 billion can easily be justified in order to support research and to fully utilize and modernize DOE facilities.

I am mindful that both the Chairman and the Ranking member of this appropriations subcommittee would like to make more money available for DOE's science programs. They have made statements yesterday that they will seek additional funds for the non-defense side of this bill as it moves forward. As they know, Senator FRANK MURKOWSKI, and I are circulating a letter in the Senate for signature by Senators to indicate their support for this goal. It's a letter that I hope strengthens their hand in getting a better allocation as we move forward. The letter is addressed to the bipartisan leadership of the Senate, and is already attracting strong bipartisan support.

I hope that when the Conference Report on this bill is finally written, the FY 2001 funding level for the DOE Office of Science will be no less than the President's request level of \$3.16 billion. I hope that the funding level can be higher, in some areas, if at all possible. And I hope that both the President and Congress will provide significant increases in funding for the DOE

Office of Science in future years in order to sustain the Office's steady growth. Such funding increases are merited by the important and unique work being conducted by the DOE Office of Science. The funding increases would also be consistent with the Senate's passage of a bill that both Senator DOMENICI and I were original co-sponsors of the Federal Research Investment Act (S. 296) which calls for doubling investment in civilian research and development efforts.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read the third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

Mr. NICKLES. I announce that the Senator from Arizona (Mr. MCCAIN) and the Senator from Alaska (Mr. MURKOWSKI) are necessarily absent.

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from California (Mrs. BOXER), the Senator from California (Mrs. FEINSTEIN), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

The result was announced—yeas 39, nays 1, as follows:

[Rollcall Vote No. 237 Leg.]

YEAS—93

Abraham	Fitzgerald	Mack
Allard	Frist	McConnell
Ashcroft	Gorton	Mikulski
Bayh	Graham	Miller
Bennett	Gramm	Moynihan
Biden	Grams	Murray
Bingaman	Grassley	Nickles
Bond	Gregg	Reed
Breaux	Hagel	Reid
Brownback	Harkin	Robb
Bryan	Hatch	Roberts
Bunning	Helms	Rockefeller
Burns	Hollings	Roth
Byrd	Hutchinson	Santorum
Campbell	Hutchison	Sarbanes
Chafee L.	Inhofe	Schumer
Cleland	Inouye	Sessions
Cochran	Jeffords	Shelby
Collins	Johnson	Smith (NH)
Conrad	Kennedy	Smith (OR)
Craig	Kerrey	Snowe
Crapo	Kerry	Specter
Daschle	Kohl	Stevens
DeWine	Kyl	Thomas
Dodd	Landrieu	Thompson
Domenici	Lautenberg	Thurmond
Dorgan	Leahy	Torricelli
Durbin	Levin	Voinovich
Edwards	Lincoln	Warner
Enzi	Lott	Wellstone
Feingold	Lugar	Wyden

NAYS—1

Baucus

NOT VOTING—6

Akaka	Feinstein	McCain
Boxer	Lieberman	Murkowski

The bill (H.R. 4733), as amended, was passed.

Mr. GORTON. Mr. President, I move to reconsider the vote.

Mrs. MURRAY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senate insists upon its amendments, requests a conference with the House, and the Chair appoints Mr. DOMENICI, Mr. COCHRAN, Mr. GORTON, Mr. MCCONNELL, Mr. BENNETT, Mr. BURNS, Mr. CRAIG, Mr. STEVENS, Mr. REID, Mr. BYRD, Mr. HOLLINGS, Mrs. MURRAY, Mr. KOHL, Mr. DORGAN, and Mr. INOUE conferees on the part of the Senate.

MORNING BUSINESS

Mr. GORTON. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

HEROISM OF HERBERT A. LITTLETON

Mr. DASCHLE. Mr. President, today the citizens of South Dakota are honoring the heroism of Herbert A. Littleton, a 20-year-old Marine Corps private who died while performing acts of gallantry that earned him the Congressional Medal of Honor.

Private First Class Littleton enlisted in Black Hawk, South Dakota, and served as a radio operator during the Korean War with the U.S. Marine Corps Reserve, Company C, 1st Battalion, 7th Marines, 1st Marine Division (Reinforced). This is the same Marine division that turned the course of the Korean War with its successful landing behind enemy lines at Inchon, Korea, 50 years ago this month.

Seven months after the Inchon landing, Private First Class Littleton's unit was in Chungchon, Korea. On the night of April 22, 1951, Private Littleton, a radio operator with an artillery forward observation team, was standing watch. Suddenly Company C's position came under attack from a well concealed and numerically superior enemy force. Private First Class Littleton quickly alerted his team and moved into position to begin calling down artillery fire on the hostile force. But as his comrades arrived to assist, an enemy hand grenade was thrown into their midst. Private First Class Littleton unhesitatingly hurled himself on the grenade, absorbing its full, shattering impact with his own body and saving the other members of his team from serious injury or death.

Following Private First Class Littleton's heroic death, the President of the United States awarded him our nation's highest military award for bravery. The official citation says: "His indomitable valor in the face of almost certain death reflects the highest credit upon Pfc. Littleton and the U.S. Naval Service. He gallantly gave his life for his country."

Mr. President, today Governor Bill Janklow dedicated a granite memorial to Private First Class Littleton in

Spearfish, South Dakota, near the town where this young man signed up to serve his country. This is a dignified and fitting tribute. But there is another memorial to Private First Class Littleton on the other side of the Pacific Ocean, where a small, impoverished colony has blossomed into the Republic of Korea: a peaceful, democratic society that ranks as one of the great economic success stories of the 20th Century. His sacrifice helped make all this possible.

With this statement before the United States Senate, I join in saluting Private First Class Littleton. As we conduct the nation's affairs in this chamber of the United States Capitol, we would do well to remember Private First Class Littleton. In our every deed, let the members of this body bear in mind the lesson of courage, honor, and personal sacrifice offered to us by a 20-year-old man fighting for his country in the darkness, far from home.

FIRESTONE-FORD INVESTIGATION

Mr. SPECTER. Mr. President, I have sought recognition to deal with very serious problems disclosed in hearings yesterday in the Transportation Appropriations Subcommittee. The hearing involved 88 deaths that have resulted from Firestone tires shredding, and a great many Ford vehicles—mostly Ford Explorers—rolling over and resulting in those 88 deaths.

The hearing yesterday produced substantial evidence that ranking officials at Firestone and Ford knew about this problem, but subjected the owners of Ford Explorer vehicles riding on Firestone tires to the risk of death, which did eventuate for 88 people, and to very serious bodily injury for many more. These risks were foisted upon the American traveling public at a time when both Ford and Firestone knew what the problems were, at a time when, in October of 1998, customers in Venezuela had found the problem, and Ford and Firestone were alerted to it, with officials in Venezuela now talking about criminal prosecutions. In August of 1999, the Saudis had their tires replaced, so the people in Saudi Arabia were being protected while U.S. consumers were not being protected.

An internal Ford memorandum on March 12, 1999, considered whether Governmental officials in the United States ought to be notified, and a decision was made not to notify Federal officials. The matter then came into sharp focus in late July of this year, with the Ford executive witness testifying that Ford did not know about the problem in its full import until July 27 when Firestone turned over the information to Federal authorities. There was a representation by the Ford witness—which candidly strains credulity—and Firestone made representations that they did not find out about this problem until they had conducted some extraordinary tests—tests which obviously should have been conducted at a much earlier stage.

Yesterday, I questioned the Ford and Firestone officials on their willingness to turn over all of the records to the Transportation Appropriations Subcommittee, and they said they would; although, as I had said at the time, I thought there ought to be a subpoena issued which made it an obligation. Failure to perform would subject anybody who did not comply with the subpoena to charges of obstruction of justice. When cases of this sort have arisen in the past, there is a tremendous amount of experience that there is reluctance on the part of companies to turn over their documents, and they are found only after the most detailed and excruciating discovery in litigation. So this is a matter where the documents will be the best evidence as to who knew what, when that was known, and what action, if any, was taken.

The tragedy with the Firestone tires and the Ford Explorer rollovers is a matter that is going to have to be determined after very substantial investigation. The witnesses who testified yesterday were Joan Claybrook, President of the Public Citizen Organization, and R. David Pittle, Senior Vice President and Technical Director, Consumers Union. Both of them felt that criminal prosecutions were appropriate, perhaps rising to the level of second degree murder because of a willful disregard or reckless disregard of the safety of others, resulting in death, which is the legal equivalent of malice and which is the basis for a charge as serious as murder in the second degree.

Whether that is applicable to Firestone and Ford remains to be seen. However, we find a situation where the laws of the United States are inadequate to deal with this kind of situation. There is no legislation on the books which establishes a prosecution in these terms.

Back in 1966, the House of Representatives considered similar legislation. I have considered it for some time and have deferred introducing such legislation because it seemed to me that perhaps it was just a little harsh. But with the experience of Ford and Firestone, I do think it is appropriate for the Congress of the United States to consider such legislation.

That is why today I am introducing a bill which would establish criminal sanctions for any person who, in gross deviation from a reasonable standard of care, introduces into interstate commerce a product known by that person to be defective which causes the death or serious bodily injury of any individual, calling for penalties up to 15 years where the requisite malice is shown resulting in death, and up to 5 years where the requisite malice is shown for serious bodily injury.

This is a matter I have studied in considerable detail over many years, having represented defendants in personal injury cases—some plaintiffs in personal injury cases—but, more specifically, as district attorney of Philadelphia seeing the impact and the ef-

fect of criminal prosecutions and seeing to it that people pay attention.

When there are similar monetary awards, it costs the company and it costs the shareholders, but it doesn't do anything to the individuals who make these decisions. Before an individual could be held responsible under my proposed legislation, there would have to be a showing that the person knew there was a defect and that defect subjected a person to death or serious bodily injury.

That kind of knowledge and putting the instrumentality into commerce does constitute gross disregard for the safety or the life of another, which is the equivalent of malice and justifies this kind of a prosecution.

As I noted, this is a subject I have studied for some time. Although the Firestone-Ford issue came up only yesterday, the studies I have undertaken have shown me the desirability of this kind of legislation.

Last year, in *Anderson v. General Motors Company*, 1999 WL 1466627, a Los Angeles Superior Court jury ordered General Motors to pay a record \$4.8 billion in punitive damages when six people were trapped and burned when their Chevrolet Malibu exploded after its fuel tank was ruptured in a rear-end crash. General Motors had made a calculation that it would cost in damages \$2.40 per automobile if they left the defect in existence, but to correct and redesign the fuel system to reduce the fire cost would have been \$8.59 a car. So that cost analysis did constitute actual malice.

That kind of an analysis was very similar to the punitive damages which were awarded in the famous case involving the Ford Pinto, which goes back to a 1981 decision in *Grimshaw v. Ford Motor Company*, 119 Cal. App. 3d 757, where an analysis was made that it would cost some \$49.5 million to pay damages resulting from deaths and injuries contrasted with \$137 million to pay for correcting the automobile.

In this particular case, the punitive damage award was \$125 million, but it was subsequently reduced to \$3.5 million, which frequently happens in punitive damage awards.

In a similar case, *Ginny V. White and Jimmy D. White v. Ford Motor Company*, CV-N-95-279-DWH (PHA), a 3-year-old child was crushed to death under the rear dual wheels of a Ford truck after it rolled suddenly down a grade. Here, Ford had known of the defect and knew how to correct it easily but did not do so. Punitive damages in that case were awarded at \$150 million but have since been reduced to \$69 million.

These cases are illustrative of the kind of headlines punitive damage awards make in the newspapers but how they are very frequently reduced. But again, the punitive damages do not really deal with the executives who make these decisions.

In the case of *Fair v. Ford Motor Company*, Civil Action 88-CI-101, 27